

**LEWISTON CITY COUNCIL AGENDA  
SPECIAL MEETING AND JOINT WORKSHOP**

**Tuesday, January 31, 2012**

**City Council Chambers**

**6:00 p.m. Special Meeting**

Pledge of Allegiance to the Flag.

Moment of Silence.

**SPECIAL MEETING**

1. Resolve Authorizing the transfer of \$400,000 from various Capital Projects and Accounts for the purpose of undertaking Armory Improvements to support the Senior Citizen Program.
2. Order Authorizing the City Administrator to Execute an Amendment to the “Supplement to and Amendment of the Joint Venture Agreement” between the City of Lewiston and Gendron & Gendron, Inc. regarding Gendron Business Park.
3. Adjourn.

**JOINT WORK SESSION WITH THE PLANNING BOARD AND FINANCE COMMITTEE**

Review of Lewiston Capital Improvement Program

LEWISTON CITY COUNCIL  
AGENDA  
JANUARY 31, 2012  
6:00 P.M.

1. Special Meeting – See separate agenda and material
2. Council Workshop – Review of Lewiston Capital Improvement Program

Staff will review the proposed Five Year Capital Improvement Program. The School Superintendent will also be present to present proposed school projects. Members of the Planning Board and Finance Committee have also been invited.

YOU MAY FIND IT USEFUL TO BRING THE COMPLETE DOCUMENT THAT WAS PROVIDED EARLIER THIS MONTH WITH YOU TO THE MEETING.

# LEWISTON CITY COUNCIL

## MEETING OF JANUARY 31, 2012

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 1**

**SUBJECT:**

Resolve - Authorizing the Transfer of \$400,000 from various Capital Projects and Accounts for the purpose of undertaking Armory Improvements to support the Senior Citizen Program.

**INFORMATION:**

This request for a transfer of project budget funds is as a result of the recent decision to relocate the Senior Citizen program from the Multi-Purpose Center to the Lewiston Armory building. The projected cost to renovate the Armory and increase parking to support the program is \$400,000. The Finance Director is recommending transferring funds from outstanding bond proceeds, which resulted from closed or delayed projects, to cover the cost of the renovations. She is recommending transferring the funds from:

- 1) 2008 Main St. Traffic Management project - \$120,700
- 2) 2009 LMRC Project Infrastructure - \$102,561
- 3) 2009 Landfill Expansion project - \$157,732
- 4) 2009 Fund Balance Accumulated Investment earnings - \$19,005

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

The City Administrator recommends approval of the requested action.

*EAB/kmm*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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To approve the Resolve authorizing the transfer of \$400,000 from various capital projects and accounts for the purpose of undertaking Armory improvements to support the Senior Citizen program.



**City of Lewiston Maine  
City Council Order  
January 31, 2012**

**RESOLVE,** Authorizing Transfer of \$400,000 from Various Capital Projects and Accounts for the Purpose of Undertaking Armory Improvements to Support the Senior Citizen Program.

**WHEREAS,** the City Council voted on January 24, 2012 to move Senior Citizens Activities to the Armory and allow the School Department to utilize the entire Multi-Purpose Center; and

**WHEREAS,** at that same meeting, the City Council approved an initial budget of \$400,000 to renovate the Armory and increase parking in the area to support the senior program; and

**WHEREAS,** at that same meeting, the Finance Director was charged with recommending appropriate financing for this project; and

**WHEREAS,** the City has an immediate need to spend outstanding bond proceeds derived from closed or delayed projects in order to avoid potential arbitrage rebates to the Internal Revenue Service;

**NOW, THEREFORE, BE IT RESOLVED by the CITY COUNCIL of the CITY of LEWISTON,**

That a budget transfer of \$400,000 from the 2008 Main Street Traffic Management Project at \$120,700.85, 2009 LMRC Project Infrastructure at \$102,561.00, 2009 Landfill Expansion at \$157,732.52, and 2009 Fund Balance Accumulated Investment Earnings of \$19,005.63 is hereby approved for the Armory renovation project.



## Finance Department

Heather Hunter  
Director of Finance/Treasurer  
hhunter@ci.lewiston.me.us



**TO:** Mayor Robert E. Macdonald  
And Members of the City Council

**FROM:** Heather Hunter, Finance Director

**SUBJECT:** **Project Budget Transfer Request**

**DATE:** January 25, 2012

The City Council recently approved the transfer of the Multi-Purpose Center to the School Department and the relocation of Senior Citizens Activities to the Armory. With this authorization, approval was granted to undergo renovations to the Armory and surrounding area for additional parking. The current project authorization budget was established at \$400,000. It was requested that I evaluate possible funding options and make a recommendation.

I am recommending the following capital project budget transfer:

FROM:	708-7087311	Main Street Traffic Management	\$120,700.85
	709-7097502	LMRC Project Infrastructure	\$102,561.00
	709-7097308	Landfill Expansion	\$157,732.52
	709 Fund Balance	Accumulated Investment Earnings	<u>\$19,005.63</u>
		<b>Transfer Total</b>	<b>\$400,000.00</b>

Before I provide specific explanations for the reason each of the above projects was selected, I would first like to share some general arbitrage information with you. In most instances, the City has the benefit of issuing tax exempt bonds which save interest costs over the life of the bond. This benefit is not without strings attached. When the City sells tax exempt bonds in excess of \$10 million, we need to be mindful of those strings, which are regulated by the Internal Revenue Service (IRS). To avoid what is known as an arbitrage calculation, the City must meet 6-month spend down limits on projects and bond funds must be fully expended within two years (24 months) from the date of issuance. If we don't meet the spend down limits, we must go through a complex calculation (using a present value basis) that determines if we received "excess" interest on the proceeds within the initial 5 years and every five years thereafter until the funds are completely liquidated. Based upon the bond issuance date, if we haven't met the 24 month spend down target, we must perform the arbitrage calculation and rebate "excess" interest to the IRS.

I wish to limit the City's exposure to rebating (returning) money to the IRS by reprogramming the above unexpended funds and closing out these bond projects.

The logical question is why do we have these unspent funds? Taking the projects individually, the Main Street Traffic Management project was our local share of a MDOT project. Unfortunately, the project was delayed two years by the State. David Jones, our Public Works Director, has indicated the project is finally moving forward this spring; however, the money won't fully be spent until the fall. This spend down of funds is still too slow for arbitrage purposes, so I'm recommending the transfer. I recognize the need to fund our local share of this project will remain, and I suggest we evaluate whether other surplus project funds are available or that we re-bond the project in 2013 when it is schedule to be completed.

The LMRC Project Infrastructure and Landfill Expansion projects were completed below budget estimates. The prior Council had dedicated the surplus landfill funds to replace the scale at the Solid Waste Facility. This project was postponed as staff evaluates a more strategic plan for the entire facility. Once again, it is necessary to expend the funds without further delay.

The requested action is to approve the \$400,000 transfer from the Main Street Traffic Management Project at \$120,700.85; the LMRC Infrastructure Project at \$102,561; Landfill Expansion Project at \$157,732.52; and unexpended 2009 Investment Earnings of \$19,005.63.

I would be happy to address any questions or concerns you may have about this request.

# LEWISTON CITY COUNCIL

## MEETING OF JANUARY 31, 2012

**AGENDA INFORMATION SHEET:**

**AGENDA ITEM NO. 2**

**SUBJECT:**

Order Authorizing the City Administrator to Execute an Amendment to the "Supplement to and Amendment of the Joint Venture Agreement" between the City of Lewiston and Gendron & Gendron, Inc regarding Gendron Business Park.

**INFORMATION:**

In 2001, the City and Gendron & Gendron partnered together in a Joint Venture Agreement for the creation of the Gendron Business Park. This amendment to the Agreement pertains to a recent forest management and timber harvesting plan that the City is working on. Please see the attached memorandum from the City Administrator for background information regarding this item.

**APPROVAL AND/OR COMMENTS OF CITY ADMINISTRATOR:**

The City Administrator recommends approval of the requested action.

*EAB/KMM*

**REQUESTED ACTION:**

1	2	3	4	5	6	7	M
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To approve the Order authorizing the City Administrator to execute an Amendment to the "Supplement to and Amendment of the Joint Venture Agreement" between the City of Lewiston and Gendron and Gendron, Inc. regarding the Gendron Business Park.



**City of Lewiston Maine  
City Council Resolve  
January 31, 2012**



**Order,** Authorizing the City Administrator to Execute an Amendment to the "Supplement to and Amendment of Joint Venture Agreement" between the City of Lewiston and Gendron & Gendron, Inc. – Gendron Business Park.

**Whereas,** the City and Gendron and Gendron are parties to a Joint Venture Agreement in 2001 involving the creation of the Gendron Business Park; and

**Whereas,** the Joint Venture Agreement was amended in October 2003 to allow for construction of Phase II of this Park; and

**Whereas,** it was further amended in 2011 to reduce the City's costs associated with developing Phase II of the Park and to maximize the long term investment and tax base potential of the Park; and

**Whereas,** in 2010 the City completed forest management plans for certain city-owned parcels including a parcel under option to Gendron and Gendron for further expansion of the Park; and

**Whereas,** Gendron and Gendron expressed concern that logging on this parcel might inadvertently impact its development potential due to the possible creation of small wetland areas; and

**Whereas,** since the City had already included projected revenue from timber harvesting in its Fiscal Year 12 operating budget, Gendron and Gendron agreed to pay the City \$20,000 in return for an agreement that timber harvesting and other activities that might negatively impact development potential would not be undertaken;

**Now, Therefore, be it Ordered by the City Council of the City of Lewiston**

That the City Administrator is authorized to execute the attached Amendment to Supplement to and Amendment of Joint Venture Agreement with Gendron and Gendron, a copy of which is attached and made a part hereof.



## City of Lewiston Executive Department

EDWARD A. BARRETT  
City Administrator

PHIL NADEAU  
Deputy City Administrator



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**To:** Honorable Mayor and Members of the City Council  
**From:** Ed Barrett  
**RE:** Amendment to Gendron Business Park Joint Venture Agreement  
**Date:** January 25, 2012

### **Background**

In 2001, the city entered into a Joint Venture Agreement with Gendron and Gendron to invest in infrastructure on G & G owned land to expand the amount of industrial park land in Lewiston. Phase I of Gendron Business Park built out quickly, triggering the need for Phase II.

The agreement was amended in 2003 to structure a partnership for development of Phase II, an eleven lot, 145-acre Business Park that will accommodate over 1 million square feet of industrial/commercial space when fully developed. Under the terms of this amendment, the city paid for permitting, infrastructure, and a proportional share of wetland mitigation costs. Four lots were to be conveyed to city ownership upon completion of construction.

In 2011, the agreement was further amended to reduce the city's cost associated with developing Phase II of the business park and to maximize the long term investment and tax base in the area. Following is a summary of that amendment:

- 1) G & G retained ownership of the four lots to be transferred to the City under the 2003 agreement.
- 2) G & G agreed, at their sole cost and expense, to do all permitting, site work, and construction of a 120,000 s.f. building; a 47,000 s.f. building; and an 82,500 s.f. building on three of the four lots, with site work to begin on or before December 31, 2011.
- 3) Construction of buildings would begin no later than the commencement of the construction season following the time when the existing inventory of G & G owned buildings in Phase I are leased and occupied by rent paying tenants.

- 4) The cost and responsibility for building Priscilla Drive (a spur road that services three lots) was transferred from the City to G & G at an estimated savings to the City of \$635,000.
- 5) An option was granted to G & G under which the City would convey approximately 22 acres of city landfill acreage that has no utility for future landfill or public works uses.

Overall, this amendment maximizes the development on three of the lots retained by G & G, provides significant long term benefit to the city, and allows the City to avoid the cost of building Priscilla Drive. Transferring the fallow land that is part of the landfill acreage will result in expanded tax base and future development.

### **Current Amendment**

Late in calendar year 2010, the City completed a forest management plan on a number of city-owned parcels, including the parcel at the landfill under option to Gendron and Gendron. These plans called for selective cutting on various parcels, including the one at the landfill. As actual survey work was underway on the parcel in 2011, we were approached by representatives of G & G who expressed concern that logging operations could potentially impact the development potential of the lot due to the inadvertent creation of wetlands that frequently results from such work. Given that we had already included a revenue estimate in the City's budget for Fiscal Year 2012, we negotiated an amendment to the Joint Venture Agreement whereby G & G would pay the City \$20,000 to cover anticipated logging revenues and the City would agree not to cut timber on the property or to do anything else that might negatively impact its future development potential.

This agreement will keep the City whole in regard to anticipated revenues and ensure that, should the property be subsequently transferred for potential development, the extent of that development can be maximized.

I recommend your approval.

**AMENDMENT TO SUPPLEMENT TO  
AND AMENDMENT OF JOINT VENTURE AGREEMENT**

**This Amendment** made effective this \_\_\_\_ day of \_\_\_\_\_, 2011 by and between **The City of Lewiston**, a body politic and corporate with a mailing address at 27 Pine Street, Lewiston, Maine 04210 (hereinafter referred to as the “City”) and **Gendron & Gendron, Inc.**, a Maine Corporation with a mailing address at P.O. Box 1913, Lewiston, Maine 04241-1913 (hereinafter referred to as “G&G”),

**W I T N E S S E T H :**

**Whereas**, the City and G&G are parties to a certain Joint Venture Agreement dated October 9, 2003 (the “Joint Venture Agreement”); and

**Whereas**, the Joint Venture Agreement was amended pursuant to Supplement to and Amendment of Joint Venture Agreement dated April 11, 2011 (the “Supplement”); and

**Whereas**, Item 16 of the Supplement provides that the Supplement may not be changed orally, but only by an agreement in writing signed by the parties hereto; and

**Whereas**, the City and G&G desire to amend the Supplement, for which it is the purpose of this Agreement to provide.

**Now, Therefore**, in consideration of the mutual promises and covenants contained herein, the parties hereto agree as follows:

1. **City Conveyed Real Estate.** Item 2 of the Supplement is hereby amended by adding a new paragraph to the end thereof to read as follows:

“Notwithstanding anything elsewhere set forth herein, the City hereby agrees that it shall have no Reserved Rights, as hereinafter defined, with respect to the City Conveyed Real Estate from the date of the Supplement To And Amendment of Joint Venture Agreement (i.e. April, 2011) forward . “Reserved

Rights” for purposes of this Supplement shall include, but not be limited to, the right to cut trees on the City Conveyed Real Estate, mineral rights, mining rights, excavation rights, water rights, and other activities on the property which would result in the creation of wetlands and impediments to its development. ..”

2. **Ratification.** In all other respects, the Supplement is hereby ratified, approved, and reconfirmed.

**In Witness Whereof**, the undersigned have hereunto set their hands and seals effective this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

**Witnesses:**

\_\_\_\_\_

**City of Lewiston**

By: \_\_\_\_\_  
Edward A. Barrett, City Administrator

**Gendron & Gendron, Inc.**

\_\_\_\_\_

By: \_\_\_\_\_  
David M. Gendron, Its President